

August 2, 2006 BZA



REQUEST ANALYSIS
AND
RECOMMENDATION

06AR0319

Charles H. and Hadessa F. White

Midlothian Magisterial District
6521 Sexton Drive

REQUEST: Renewal of Special Exception 03AN0268 to permit the keeping of three (3) dogs in a Residential (R-7) District.

RECOMMENDATION

Recommend denial of this Special Exception for the following reasons:

- A. The proposed use may be likely to have an adverse effect on the health, safety or welfare of persons residing on the premises or in the area.
- B. The keeping of three (3) dogs is incompatible with the permitted uses in this Residential (R-7) District.
- C. There are no conditions that will be adequate to address the negative impacts that keeping three (3) dogs on the property will have on the area in general.

GENERAL INFORMATION

Location:

Property is known as 6521 Sexton Drive. Tax ID 768-693-6277 (Sheet 11).

Existing Zoning:

R-7

Size:

0.2 acre

Existing Land Use:

Residential

Adjacent Zoning and Land Use:

North - R-7; Residential
South - R-7; Residential
East - R-7; Residential
West - R-7; Residential

Utilities:

Public water and sewer

General Plan:

(Central Area Land Use and Transportation Plan)

Residential
(2.51 to 4.0 units per acre)

DISCUSSION

The applicants request renewal of Special Exception 03AN0268 to permit the keeping of three (3) dogs in a Residential (R-7) District. This type of request is classified by the Zoning Ordinance as a private kennel. The Ordinance defines a private kennel as “A place where three or more dogs, more than four months old, are kept for private use.”

The applicants provide the following justification in support of this request:

We live in a single family residential subdivision. We would like to continue to keep all three (3) dogs on our property. The dogs are just like family. The boys’ dogs are father and sons and we love them very much. They are just like our children. Also, we would like to request that the Special Exception be granted for as long as we own property at 6521 Sexton Drive.

Rusty, RJ and Shep (our dogs) would not be detrimental to adjacent properties because they are always on a leash in the front yard or inside a five (5) foot fence in the backyard. We basically clean up after the dogs everyday and put lime down for the smell. Also, they are always inside the house if no one is home. All of the dogs are up to date on their shots. The neighbors haven’t complained to us about the dogs.

On June 4, 2003, the Board of Zoning Appeals approved a Special Exception to permit the applicants to keep three (3) dogs in a Residential (R-7) District. A copy of the minutes of the June 4, 2003, Board meeting is attached.

Planning Department staff originally visited the site in 2003 in response to a complaint. However, over the past three (3) years, staff has not received any complaints relative to the property owner's 2003 Special Exception. The applicants have indicated they would like to change the time limit for the Special Exception for as long as they live on the subject property. Staff believes the previously approved conditions have helped to lessen the adverse impacts that this use may have on the neighborhood and area in general, however, staff recommends a five (5) year time limit be imposed (Condition 2). Also, please note that Condition 4 stipulates that "should any one (1) of the dogs be sold, given or pass away, it shall not be replaced".

Staff's field inspection revealed a single family dwelling on the subject property which is located in the Stevens Hollow Subdivision. Stevens Hollow is an older, well established subdivision located off the northeast line of Turner Road, just northeast of Belmont Road. The property is zoned Residential (R-7) and consists of a 0.2 acre lot. There are single family dwellings located on adjacent properties to the north, south, east and west. A five (5) foot chain link fence is located in the rear yard of the property.

Keeping three (3) dogs is similar in character to a commercial kennel. This proposed use is not compatible with uses that are permitted in Residential (R-7) District which is intended to permit single family dwellings.

This type of request may have an adverse effect on the character of the area and may adversely affect the welfare of the persons residing or working in the area because the noise produced by three (3) dogs may create a nuisance.

Staff believes that imposing conditions will not mitigate the negative impact that this use may have on this residential neighborhood. Although the yard is adequately maintained and the dogs are confined within a fence in the rear yard, the number of dogs may be a nuisance to adjacent and area properties. Therefore, staff cannot support this request.

However, if the Board feels that this request has merit, staff recommends that it be subject to the following conditions:

CONDITIONS

1. Special Exception shall be granted to and for Charles H. and Hadessa F. White, exclusively, and shall not be transferable nor run with the land.
2. Special Exception shall be granted for a period not to exceed five (5) years from date of approval and may be renewed upon satisfactory reapplication and demonstration that the keeping of these three (3) dogs has not proved a detriment to the adjacent property or the area in general.

3. All dogs shall be confined to the existing dwelling. Whenever the animals are allowed outside the dwelling, they shall be on a leash or within the fence in the rear yard.
4. Should any one (1) of the dogs be sold, given or pass away, it shall not be replaced.
5. The applicants shall not breed or board dogs on this property.
6. The applicant shall provide a history of each dog, such as age, sex, color and size as well as a photo to the Planning Department within thirty (30) days of approval of the Special Exception.



Chesterfield County, Virginia
Board of Zoning Appeals
June 4, 2003

PRESENT:

Mr. Joseph L. Biggs, Chairman
Mr. W. Baxter Perkinson, Sr., Vice-Chairman
Mr. John E. Caperton
Mr. Graham C. Daniels
Mr. H. Stephen Moore, Jr.

ALSO PRESENT:

Mr. J. Michael Janosik, Secretary to the
Board of Zoning Appeals, Zoning Administrator,
Planning Department
Ms. Donna McClurg, Planner,
Planning Department
Ms. Linda N. Lewis, Administrative Secretary,
Administration Branch, Planning Department
Ms. Teresa Davis, Administrative Secretary,
Administration Branch, Planning Department
Ms. Lola M. Rodriguez, Assistant County Attorney,
County Attorney's Office

At approximately 11:30 a. m., Messrs. Biggs, Perkinson, Caperton, Daniels, Moore and staff met at John Howlett's Tavern for lunch and a work session. During lunch, there was discussion pertaining to the cases being heard at the Board of Zoning Appeals meeting.

At approximately 1:00 p. m., Mr. Biggs, Chairman, called the meeting to order in Public Meeting Room, Chesterfield County Administration Building.

The invocation was given by Mr. Perkinson.

The Board considered the minutes of the May 7, 2003, Board of Zoning Appeals public hearing.

Mr. Caperton stated that a correction needed to be made to page 4, first paragraph as follows:

Providing a FIRST CHOICE Community Through Excellence in Public Service.

(BZA)

AYES: Messrs. Biggs, Caperton, Daniels and Moore.
NAY: Mr. Perkinson.

The Board recessed at 3:45 p. m.

The Board reconvened at 3:52 p. m.

03AN0268: In Midlothian Magisterial District, **CHARLES H. AND HADESSA K. F. WHITE** requested a Special Exception to permit the keeping of three (3) dogs in a Residential (R-7) District and amendment of zoning district map. The density of such amendment will be controlled by zoning conditions or Ordinance standards. The Comprehensive Plan suggests the property is appropriate for residential use of 2.51 to 4.0 units per acre. This property is known as 6521 Sexton Drive. Tax ID 768-693-6277 (Sheet 11).

Ms. Donna McClurg gave the background information and staff's recommendation for denial of Case 03AN0268 and stated, however, if the Board felt that the request had merit, it be granted subject to the conditions recommended by staff.

Mr. and Mrs. White, the applicants, agreed with the conditions recommended by staff and presented a petition signed by their neighbors supporting their request.

Mr. Willie C. Rigsby, a former adjacent property owner, stated that his opposition was a business issue and he was opposed to the request because the animals had prevented him from renting his property, caused difficulty selling the home and that one (1) of the dogs had bitten him.

Mr. Ray Wiggins, adjacent property owner, stated he and other neighbors had no problems with the dogs.

On motion of Mr. Moore, seconded by Mr. Perkinson, the Board resolved to approve the request for a Special Exception to permit the keeping of three (3) dogs in a Residential (R-7) District for Case 03AN0268, subject to the following conditions:

CONDITIONS

1. Special Exception shall be granted to and for Charles H. and Hadessa K. F. White, exclusively, and shall not be transferable nor run with the land.
2. Special Exception shall be granted for a period not to exceed three (3) years from date of approval and may be renewed upon satisfactory reapplication and demonstration that the keeping of these three (3) dogs has not proved a detriment to the adjacent property or the area in general.

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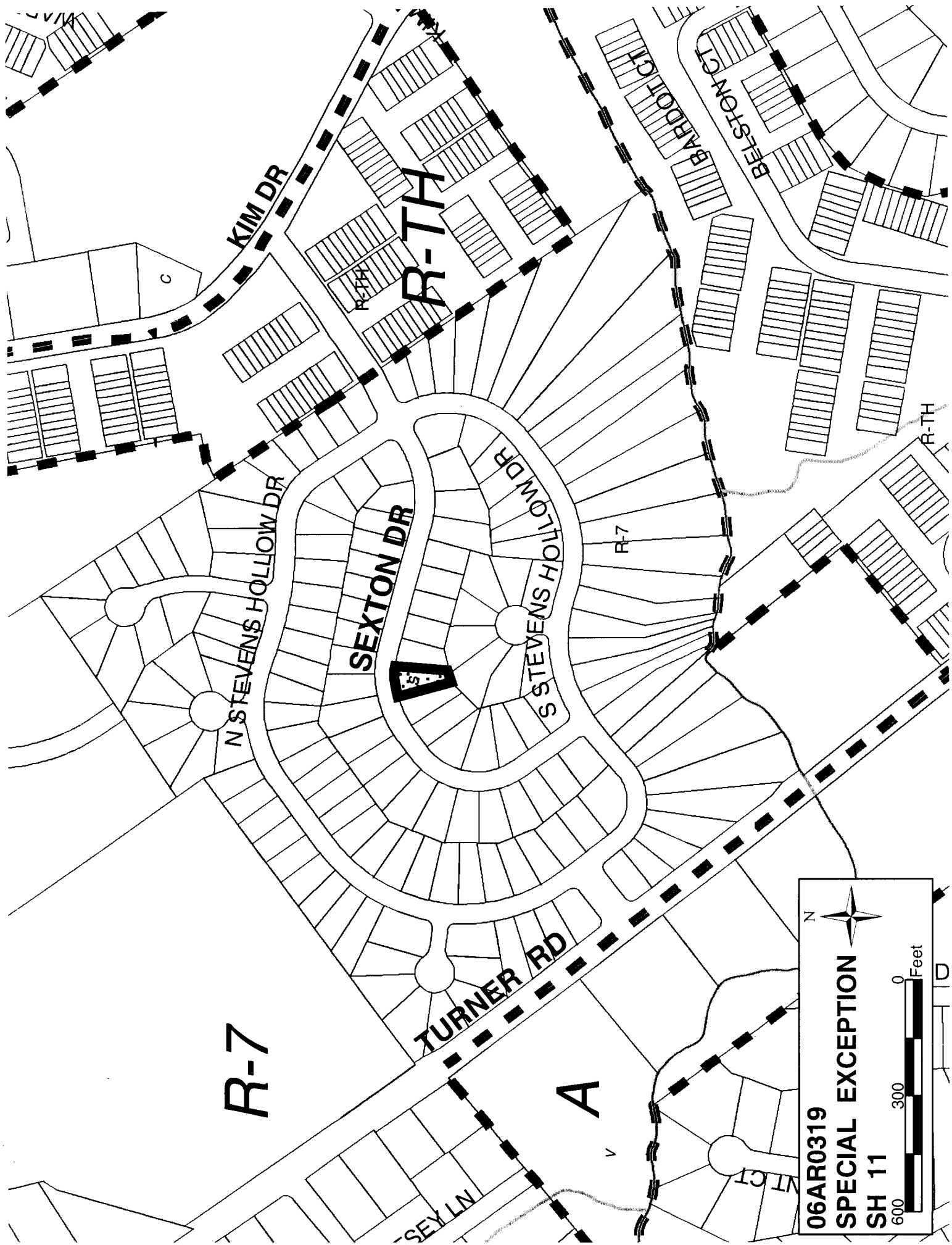
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SPECIAL EXCEPTION
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